

Internal Revenue Service

Department of the Treasury

District  
Director

Employer Identification Number:

Person to Contact:

Telephone Number:

Refer Reply to:

Internal Revenue Service

CERTIFIED

Date: DEC 23 1992

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(4) of the Internal Revenue Code.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

Your purpose as stated in your Articles of Incorporation is to engage in the operation and business of and to offer services relating to street improvements and maintenance.

According to the information submitted with Form 1024, your activities primarily consist of the maintaining, resurfacing, and repairing of all common roads in the subdivision. The organization will also establish covenants and restrictions for improving and preserving the architectural appearance of the subdivision.

You indicated that the subdivision was formed by a private developer and the roads are privately maintained by the homeowners. The sole purpose of these roads is to provide accessibility to the various homes in the subdivision. These roads only lead into the subdivision, they do not go through. Thus, the only use the general public has for these roads, is to visit the various homes that are located in the subdivision.

Section 501(c)(4) of the code provides for the exemption from Federal income tax of organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced with this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

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Revenue Ruling 72-102, 1972 C.B. 149, holds that a nonprofit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks and common areas for the use of the residents is exempt under Section 501(c)(4). Where a subdivision or housing development constitutes a community, the administering and enforcing of covenants, and owning and maintaining certain non-residential, non-commercial properties of the type normally owned and maintained by municipal governments serves the common good and the general welfare of such a community.

Revenue Ruling 74-99, 1974-1 C.B. 131, which modified Revenue Ruling 72-102, holds that a homeowners association, to qualify for exemption under Section 501(c)(4) of the Code, (1) must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof, (2) it must not conduct activities directed to the exterior maintenance of private residences and (3) the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

Since the use of these roads are for the private benefit of the homeowners, rather than for the benefit of the community, it is evident that you are not operated exclusively for the promotion of social welfare within the meaning of the Section 501(c)(4) of the Code.

Based on the foregoing, we have concluded that your organization is operated primarily for the private benefit of your members and any benefits to the community are not sufficient to meet the requirement of the regulation that an organization be operated primarily for the common good and general welfare of the people of the community. Accordingly, we hold that you are not exempt from Federal income tax as a social welfare organization under Section 501(c)(4) of the Code and are required to file Federal income tax returns annually.

A homeowners association that is not exempt under Section 501(c)(4) and that is either a condominium management association or a residential real estate management association generally may elect, under the provisions of Section 528, to receive certain tax benefits that, in effect, permit the exclusion of its exempt function income from its gross income. The election is made each year by filing Form 1120-H.

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If we do not hear from you within 30 days from the date of this letter, this determination will become final.

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

Sincerely yours,

District Director

Enclosures:  
Publication 892  
Form 6018